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6 IN THE MATTER OF :
7 H Street F&B LLC & HBCT, LLC: Case #16-PRO-00084
8 t/a Crimson :
9 627 H Street NW :
10 License #ABRA-103085 :
11 Retailer Class CH :
12 New Application :
13 - - - - -X

14 Monday, August 1, 2016

16 Whereupon, the above-referenced matter
17 came on for hearing at the Alcoholic Beverage
18 Control Board, Reeves Center, 2000 14th Street,
19 N.W., Suite 400S, Washington, D.C. 20009.

1 CHAIRPERSON:

2 LAVERNE FLETCHER, Presiding

3

4 ALSO PRESENT:

5 MICHAEL FONSECA

6 HOWARD MARKS

7 JOHN TINPE

8 ELLEN SULLIVAN

9 PRISCILLA KELLY

10 JUNE APPEL

11 KARYN POSNER-MULLEN

12 BARBARA WANCHISEN

13 ELIZABETH MILLER

14 KEVIN HARRIFORD

15

1 P-R-O-C-E-E-D-I-N-G-S

2 ROLL CALL HEARING

3 CHAIRPERSON FLETCHER: Will the parties
4 in the matter of Crimson please come forward?
5 This is case #16-PRO-00084. H Street F&B, LLC,
6 and HBCT, LLC, trading as Crimson, 627 H Street
7 Northwest, license #ABRA-103085. This is a
8 Retailer Class CH, new application. The protest
9 issues are adverse impact on peace, order and
10 quiet. My name is Laverne Fletcher. I'm
11 conducting the roll call hearing as the Board's
12 agent pursuant to D.C. Official Code 1601.2.
13 Introductions beginning with the applicant,
14 please.

15 MR. FONSECA: Michael Fonseca on behalf of
16 the applicants.

17 CHAIRPERSON FLETCHER: Thank you, Mr.
18 Fonseca. And present on behalf of the group of
19 individuals?

20 MR. MARKS: Yes, Howard Marks. I'm a
21 resident of the 777 7th Street Northwest, the
22 residence at Gallery Place.

1 CHAIRPERSON FLETCHER: Thank you, Mr. Marks.

2 MR. TINPE: John Tinpe, advisory ?
3 commissioner, but also here with a group of
4 residents protesting.

5 CHAIRPERSON FLETCHER: Thank you, Mr. Tinpe.
6 And you also signed the protest letter?

7 MR. TINPE: Yes, ma'am.

8 CHAIRPERSON FLETCHER: Okay, can you clarify
9 for the record that the ANC did not file a
10 protest but a group of individuals?

11 MR. TINPE: I clarify for the record that ANC
12 is not protesting, but a group of individuals are
13 protesting.

14 CHAIRPERSON FLETCHER: Okay, thank you very
15 much. And, Mr. Marks, are there any other
16 individuals from your protest group present
17 today?

18 MR. MARKS: There are. They are sitting --
19 sitting -- sitting --

20 UNKNOWN SPEAKER: You know, it's you're
21 testing the court reporter.

22 CHAIRPERSON FLETCHER: And so, what you can

1 do is you can line up behind Mr. Marks. There's
2 a microphone on the middle -- in the middle of
3 the table. If you could state your name and
4 spell it for the record, please.

5 DR. KELLY: My name is Dr. Priscilla Kelly.
6 Kelly, K-E-L-L-Y.

7 CHAIRPERSON FLETCHER: And Priscilla, how do
8 you spell that?

9 DR. KELLY: P-R-I-S-C-I-L-L-A.

10 CHAIRPERSON FLETCHER: Thank you.

11 MS. APPEL: My name is June Appel. June like
12 the month. Appel A-P-P as in Peter - E-L.

13 CHAIRPERSON FLETCHER: Thank you.

14 MS. POSNER-MULLEN: Good morning, my name is
15 Karyn Posner-Mullen. K-A-R-Y-N--P-O-S-N-E-R--M-
16 U-L-L-E-N.

17 CHAIRPERSON FLETCHER: Was that an M-U-L-L?

18 MS. POSNER-MULLEN: Yes.

19 CHAIRPERSON FLETCHER: Okay, thank you.

20 MS. WANCHISEN: Hi, Barbara Wanchisen. W-A-
21 N-C-H-I-S-E-N.

22 MS. MILLER: Elizabeth Miller. That's with a

1 Z. E-L-I-Z-A-B-E-T-H -- Miller.

2 CHAIRPERSON FLETCHER: Thanks.

3 MR. HARRIFORD: Kevin Harriford. Last name
4 is spelled H-A-R-R-I-F-O-R-D.

5 CHAIRPERSON FLETCHER: Thank you. And so
6 each of you signed the protest letter?

7 UNKNOWN SPEAKERS: Yes.

8 CHAIRPERSON FLETCHER: Thank you. And so,
9 Mr. Marks, do you have a list of the mailing
10 addresses for the individuals present today?

11 MR. MARKS: I do. All of the individuals who
12 appeared before you this morning all live at 777
13 7th Street Northwest.

14 CHAIRPERSON FLETCHER: So, what we need -- we
15 need a protest letter -- the protest letter
16 itself has to have a mailing address on it,
17 otherwise we don't know where you live and that's
18 important, so what you can do, because the
19 individuals that are here, you can write down
20 your name and your mailing address for the record
21 while you're here. That's what we're going to
22 need. We need your mailing addresses from you.

1 MR. MARKS: And I have -- Madame Clerk -- I
2 have a letter -- a letter on stationery from the
3 residence at Galaxy Place with the signature
4 blocks and all of the information that you
5 requested. I'm going to circulate that right
6 now.

7 CHAIRPERSON FLETCHER: Can you show that to
8 Mr. Fonseca?

9 MR. FONSECA: That has been filed here,
10 correct?

11 CHAIRPERSON FLETCHER: No, not --

12 MR. MARKS: Well they file that when they
13 sign it.

14 MR. FONSECA: Is this the same as the letter
15 that was on the ANC's letterhead?

16 MR. MARKS: The stationery --

17 MR. FONSECA: I know the stationery --

18 MR. MARKS: It's the stationery and there
19 might have been basically essentially the same,
20 there might have been one small alteration, but
21 not of any consequence.

22 MR. FONSECA: Okay. If I can get a copy

1 then.

2 MR. MARKS: Okay, I'll take that as --

3 MR. FONSECA: If you could after it's signed
4 by the other --

5 MR. MARKS: Let me just see.

6 CHAIRPERSON FLETCHER: Yes. Thank you, Mr.
7 Fonseca. So, Mr. Marks, what is this document?

8 MR. MARKS: This letter is my protest letter
9 and these are the signature blocks so I'll just
10 keep that as you requested.

11 CHAIRPERSON FLETCHER: Yeah, so what are
12 those requesting. This is a file requesting,
13 it's going to be accomplished today to some
14 extent, so what I was requesting is a protest
15 letter resubmitted by the individual protestants
16 with their mailing addresses on it. We are going
17 to be able to accomplish part of this today. So,
18 this letter doesn't have the signatures and
19 addresses of the residents, so this document is
20 not a document that we need, but the individuals
21 you have present today are going to help
22 accomplish the same thing. When you file a

1 protest letter it must have a mailing address on
2 it. We have all the e-mail addresses but we
3 don't know where you live with an e-mail address.
4 So, here's what we're going to do. When this
5 comes back, I'm going to take a look at it and
6 make sure that everyone present signed the
7 protest letter and standing can be granted to
8 each of those individuals, not the rest.

9 MR. FONSECA: Okay, I understand, I
10 understand.

11 CHAIRPERSON FLETCHER: Okay, okay. So, do you
12 want to say something, Mr. Fonseca?

13 MR. FONSECA: If I could clarify, is it your
14 intent to accept then the June 16th letter which
15 I haven't really reviewed but --

16 CHAIRPERSON FLETCHER: Right.

17 MR. FONSECA: -- but on its face it's not an
18 addition to the protest, that is it was on time.

19 CHAIRPERSON FLETCHER: Right, the letter --
20 the protest letter that you received a copy of,
21 Mr. Fonseca, the original one.

22 MR. FONSECA: Yes?

1 CHAIRPERSON FLETCHER: From that letter we're
2 only going to take away the individuals who are
3 present today to give us their mailing address.

4 MR. FONSECA: That I understand.

5 CHAIRPERSON FLETCHER: Right, and so -- but
6 the letter we just looked at -- the letter that
7 was just presented by Mr. Marks, we're not going
8 to use that at all.

9 MR. FONSECA: All right, that can be
10 considered correspondence but not part of the
11 protest.

12 CHAIRPERSON FLETCHER: I'm not going to
13 accept it for the record at all.

14 MR. FONSECA: Okay.

15 CHAIRPERSON FLETCHER: Because it is not
16 useful, because it's not signed, it doesn't have
17 any addresses on it, so it serves no purpose,
18 it's a letter with blank writing, there's nothing
19 on it. But it seems to be, Mr. Marks you
20 mentioned it's the same letter originally
21 submitted just without that, so we don't need it,
22 we've already got it with the names of the

1 protestants on it. That's right, that group
2 right there. Oh, Mr. Marks, I'm sorry, you have
3 to get back to your microphone, sorry. So we're
4 just going to wait for the addresses of everybody
5 present. So, what that means is that the
6 individuals present, assuming that they signed
7 the protest letter, are going to be granted
8 standing. The other individuals who are the
9 group of 55 will not be granted standing because
10 their protest letter is not valid because we
11 don't have a mailing address.

12 So, just for the record, everyone was given
13 an opportunity to submit a mailing address if
14 they wanted to. It is fine that individuals
15 showed up and so we'll accept the mailing
16 addresses while you're here, but for the other
17 individuals we can't accept their protest letters
18 because we don't know where they live.

19 MR. MARKS: We apologize on behalf of the
20 condo Board for not following those rules.

21 CHAIRPERSON FLETCHER: Well, guess what? You
22 did a good job because you have at least five

1 people here today, so you can keep moving along
2 with your protest with this group.

3 MR. MARKS: Thank you so much.

4 MR. FONSECA: You don't have another hearing.

5 CHAIRPERSON FLETCHER: Yes, this actually is
6 -- well no, this is it.

7 MR. TINPE: Ma'am, since we do have members
8 of the condo Board actually here we can actually
9 pull up the addresses. Is that something we're
10 allowed to do?

11 CHAIRPERSON FLETCHER: We just need each
12 person sitting in the room to write their name
13 and address, that's it.

14 MR. TINPE: That's it?

15 CHAIRPERSON FLETCHER: Because we have the
16 signatures on file. We just need mailing
17 addresses from you, so you told us where you
18 live.

19 MR. FONSECA: I don't, for the record, have
20 the acknowledged protest letter actually
21 contained also in the body of [inaudible 15:38]
22 Mr. Marks' designation as a representative.

1 CHAIRPERSON FLETCHER: That's right. Yes,
2 Mr. Marks, you were designated as a
3 representative in the original letter and so
4 that's why I can actually confirm that with you
5 early that you're the designated representative
6 and not. Mr. Tinpe. That e-mail -- you got an e-
7 mail from me --

8 MR. MARKS: Correct.

9 CHAIRPERSON FLETCHER: -- that confirms who
10 the designated representative is and that's you.

11 MR. MARKS: Yes, ma'am.

12 CHAIRPERSON FLETCHER: Okay.

13 MR. FONSECA: I suggest we can at least move
14 through mediation and other outbound dates.

15 CHAIRPERSON FLETCHER: Yeah, we can do that.
16 So, I can give you --

17 MR. FONSECA: Oh, they're assigned.

18 CHAIRPERSON FLETCHER: Yeah. So, we can do
19 that. I can give you the date -- we have to
20 schedule a mediation, a status hearing and a
21 protest hearing, and so I can give you those
22 dates right now. I'll give you the status

1 hearing date first. That is September the 28th
2 at 9:30 a.m.. September the 28th at 9:30 for the
3 status hearing. The protest hearing is set for
4 November the 9th at 1:30.

5 MR. MARKS: That's the day before my
6 birthday.

7 CHAIRPERSON FLETCHER: So, is that going to
8 be a good day?

9 MR. FONSECA: Ma'am did you say 9:30?

10 CHAIRPERSON FLETCHER: At 1:30.

11 MR. FONSECA: 1:30.

12 CHAIRPERSON FLETCHER: It's November 9th.

13 MR. FONSECA: 9th at 1:30?

14 CHAIRPERSON FLETCHER: At 1:30, Mm hmm. We
15 need to set a date for mediation to occur prior
16 to September 28th.

17 MR. FONSECA: One of my -- one of the two
18 principals of the companies of the applicant are
19 -- both of them are out. Now, one comes back
20 next week and so essentially we're looking at the
21 earliest as the 17th, with the 18th of September
22 -- excuse me -- of August, rather.

1 CHAIRPERSON FLETCHER: Of August?

2 MR. FONSECA: Do you have that available?

3 CHAIRPERSON FLETCHER: Let's see. We could
4 do August 18 at 1:30.

5 MR. FONSECA: At what time?

6 CHAIRPERSON FLETCHER: 1:30 in the afternoon.

7 MR. MARKS: You wanna check with your people?
8 Normally you don't need everyone.

9 MR. FONSECA: No, I just wanted to check with
10 Mr. Tinpe.

11 MR. MARKS: August 18th at 1:30?

12 MR. FONSECA: He's just checking his.

13 CHAIRPERSON FLETCHER: Okay.

14 MR. FONSECA: That's a Thursday.

15 MR. MARKS: And, I'm sorry, Counsel, did you
16 say that the owner of Morris Hotel could be
17 present on that day?

18 MR. FONSECA: Yes, yes, that can be Aaron.
19 Yeah. Aaron gets back from his vacation on the
20 16th, so the 17th or 18th, those are fine if
21 those are the two earliest.

22 MR. MARKS: Okay.

1 MR. FONSECA: So, we're talking about the
2 mediation August 18th at 1:30 p.m. Ma'am, where
3 do we report?

4 CHAIRPERSON FLETCHER: In here, except the
5 mediation will probably be in this room which
6 you'll just need to report to the desk out front.

7 MR. MARKS: Okay.

8 CHAIRPERSON FLETCHER: To the receptionist's
9 area.

10 MR. MARKS: So, is this a public mediation?
11 Is it public or private?

12 CHAIRPERSON FLETCHER: It's private and
13 confidential. It's only between the parties.

14 MR. MARKS: Only between the parties.

15 CHAIRPERSON FLETCHER: So, it could only be
16 you as the designated representative, we like the
17 designated representative to come but any
18 protestant can come.

19 MR. MARKS: Okay.

20 CHAIRPERSON FLETCHER: And Mr. Fonseca and
21 his clients, those are the parties.

22 MR. MARKS: Okay, and are there notes taken

1 or just it's an informal kind of --

2 CHAIRPERSON FLETCHER: It's informal. You
3 may take notes if you like. I'll take notes but
4 mine are confidential; it's a confidential
5 process, it's not a public process at all, so --
6 but you can take notes.

7 MR. MARKS: Okay, well thank you so much.
8 This is new to me. I've lived in the district
9 now 11 years so I did serve on the Logan Circle
10 ANC as a community relations person, I wasn't a
11 commissioner but I was on the Board -- on the
12 community development committee and I've worked
13 also very closely with our own ANC and so thank
14 you so much for your tolerance of us and our just
15 sort of like groping around to get this thing
16 done.

17 CHAIRPERSON FLETCHER: You did a good job.
18 You got at least five people here, I'm happy to
19 say.

20 MR. MARKS: Well, you know, our building --
21 we have 190 -- ma'am we have 193 owners and
22 renters that live in our building, we have 193

1 units and we're all very much affected by the
2 applicants, the request for the license.

3 CHAIRPERSON FLETCHER: Mm hmm.

4 MR. MARKS: And actually, it was a great
5 benefit because it unified the building and it
6 brought us together.

7 CHAIRPERSON FLETCHER: It did?

8 MR. MARKS: And also it got us closer to
9 Trader Joe's so I want to go over there now after
10 this is over.

11 CHAIRPERSON FLETCHER: That's right, you're a
12 block -- a half a block away.

13 MR. MARKS: I'm just finishing up here on the
14 last block, signature block.

15 CHAIRPERSON FLETCHER: Okay.

16 MR. FONSECA: You can send me something by e-
17 mail?

18 CHAIRPERSON FLETCHER: Yes.

19 MR. FONSECA: That easier or you want me to
20 wait?

21 CHAIRPERSON FLETCHER: Actually, if you can
22 wait it won't take me but a minute.

1 MR. FONSECA: Thank you. So I'm looking at
2 the list of the mailing addresses. Okay, thanks
3 for putting the unit number. So, there are eight
4 individuals present today, there are eight
5 mailing addresses on this document along with
6 eight additional signatures. The standing is
7 being granted to eight.

8 MR. MARKS: Thank you, Madame Clerk.

9 CHAIRPERSON FLETCHER: You're welcome and
10 what that means, Mr. Marks, is that at the
11 upcoming status hearing only you need to appear.
12 The Board likes to see at least five faces by the
13 status hearing. Because at least five people are
14 present today, only you need to appear for the
15 status hearing. Anybody can come if they want
16 but we only need to see you.

17 MR. MARKS: Well, thank you so much. I'll be
18 very lonely, but I will go ahead.

19 CHAIRPERSON FLETCHER: So, full standing is
20 granted to you today.

21 MR. MARKS: Thank you.

22 CHAIRPERSON FLETCHER: Same thing for the

1 mediation. Generally, the designated
2 representative appears. However, anybody from a
3 protest group can come. Any questions at all?

4 MR. MARKS: Just one. I mean, obviously no
5 one foresees illness or family emergencies, that
6 sort of thing. But in the unlikely event that
7 something does come up that would prevent me from
8 coming here, what's the general rule of the
9 Board?

10 CHAIRPERSON FLETCHER: You can designate Mr.
11 Tinpe to represent the group or you can -- you're
12 the designated representative, you can designate
13 a representative to come on your behalf.

14 MR. MARKS: Okay, thank you so much, Madame
15 Clerk.

16 CHAIRPERSON FLETCHER: Or you can designate
17 somebody else if you want. So, as long as we get
18 a designation in writing that's all that matters.

19 MR. MARKS: Thank you.

20 CHAIRPERSON FLETCHER: So, the roll call
21 hearing is concluded. [Whereupon, the
22 above-entitled matter concluded.]